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EXAMINER	
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ART UNIT	PAPER NUMBER
2427	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/796,909	BARAN ET AL.	
	Examiner	Art Unit	
	ALAN LUONG	2427	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 May 2011*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,5-7 and 9-11* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,5-7 and 9-11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 5/12/2011 have been fully considered but they are not persuasive, because below reasons:.

I. *Rejection Under 35 U.S.C..~ 102(b) of Claims 1, 5, 7, 9 and 11*

A. **Claim 1**:Applicant argues that Plotnick does not teach *"removing, responsive to matching the first class of metadata with the second class of metadata, undesired segments from the TV program; and reimbursing source content suppliers for a financial loss occasioned by removed material, wherein the source content suppliers are distinct from an operator of the distribution head end." because:*

1. First, Plotnick does not read on removing undesired segments based on the second class of metadata. The cited portion of Plotnick teaches two relevant uses of the word "remove" involve changing around the queue of ads scheduled to be shown on a particular STB PVR. 0040, 0130; compare OA p. 4, top third. Plotnick's ad filters and user profiles control what ads are inserted into the unwanted segments. By changing the ads inserted into the unwanted segments, Plotnick hopes to entice the user not to skip a commercial.

In contrast to invention, in Plotnick, user uses remote control manually skip or remove undesired segments, not automatically remove undesired segments. Therefore, Plotnick does not read on removing undesired segments based on the second class of metadata. (Remark, page 6). Examiner disagrees.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *automatically remove undesired segments*) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Examiner relies on the cited portion 0130 of Plotnick teaches The rules may be rules provided by the advertisers in the development of the UAQ, general rules applied to all UAQs, rules that are based on a profile of the subscriber developed by the PVR. The rules may modify the order of the UAQ; Examples of ads that may be removed specific

ads *(called as undesired segments based on the second class of metadata)* (i.e., Britney Spears Pepsi ad), specific company ads (i.e., Pepsi), ads for a particular product type (i.e., beer), specific type of ads (i.e., EPG), or specific genre of ad (i.e., funny ads). The rules may be applied after each ad, after each specific action a subscriber takes while viewing an ad (i.e., skip or fast forward ad, change channel, raise or lower volume), at fixed intervals (i.e., once a day), when the PVR determines that it is in order.

Examiner relies on the cited portion 0107 of Plotnick teaches comparing the target audience specified in the ad metadata 1006 (called as *based on the second class of metadata)* with the viewer profiles from a profile database 1046. Ads that are not appropriate for viewers in this household will be discarded. The ad metadata 1006 will either be saved or discarded *(removing)*, depending upon whether the ad was saved or discarded. The processing 1010 manages the ad database 1014 and the ad queue database 1018 by examining the contract limits from the ad metadata 1006 to determine when to purge ads 1002 and ad metadata 1006 *(removing undesired segments based on the second class of metadata)* from the associated databases 1014, 1018.

Examiner believes both above citations of Plotnick teach the above claimed feature.

2. Second, Plotnick does not provide any mechanism for reimbursing source content suppliers for financial loss. The reference says nothing about reimbursing anyone, much less source content suppliers. And, the money flows described all involve advertisers, not source content suppliers.
There is no suggestion anywhere in Plotnick of the system operator paying money to the advertiser; there is none sense of reimbursing, because the advertiser is only billed for and only pays for ads actually displayed. Therefore, Plotnick does not read on reimbursing source content providers and the anticipatory rejection should be withdrawn. (Remark, page 7). Examiner disagrees.

Examiner relies on Plotnick teaches "The traffic and billing system 712 bills the advertiser based on requirements satisfied during the campaign." Id. It "tracks the insertion results and bills the advertiser based on the insertions and contract requirements." Pp. 0119. It avoids billing the advertiser when a subscriber fast forwards through or skips advertisements". Pp. 0120. This means that the advertiser is only billed for content actually displayed on the TV.

Plotnick also teaches the value of the ad can be salvaged by replaying the fast-forwarding ad with an alternative shortened version of the ad. The alternative ad may be generated from the fast-forwarding ad or it may be a separate ad. The alternative ad may be a portion of video of the fast-forwarding ad (i.e., the first 2 seconds, first second and last second), a single image, a combination of still image and video, a modification of video, still image or combination thereof (i.e., addition of graphics), or not be based on the fast forwarding ad at all. The alternative ad may be displayed in place of the fast-forwarding ad or in conjunction with the fast-forwarding ad (i.e., split screen, picture-in-picture). The alternative ad may be generated from the ad by applying rules that are

either specific to the ad or are general and can be used for generating a replacement for any fast-forwarding ad; (pp. 0121) means that the alternative ad is considered as providing any mechanism for reimbursing source content suppliers for financial loss because the Ads are still displayed in form of split screen, picture-in-picture); the claim limitation does not require that the system operator pay money to the advertiser per se in order to reimburse a financial loss.

B. Claim 5: Applicant argues that *nowhere in Plotnick teaches logic to "* metadata defining unwanted program segments of the TV programs**,** *remove undesired program segments from a specific program, cause* reimbursement of a source content supplier *."* (Remark, page 8). Examiner disagrees.

Because claim 5 shares the same limitation of claim 1; Examiner addresses the same discussion sets forth above with respect to claim 1;

C. Claim 9: Applicant argues that *claim 9 further than claim 1 with respect to* ***receive user instructions on demand to remove undesired program segments from a specific program, to evaluate the TV metadata of the specific program, and to remove the undesired program segments from the specific program****." is not addressed in Office Action;* (Remark, pages 8-9). Examiner disagrees.

Examiner relies on *Plotnick* discloses a true VoD system also includes the ability to pause the movie, fast forward through the movie, rewind, or stop at any point in the programming ***(a specific program)*** (Plotnick, pp. 0071, 0077); it is possible for the subscriber to record the programming and play it back in the future ***to evaluate the TV metadata of the specific program*** (potentially just a few minutes later) and fast forward through, or skip the advertisements. If the ads are fast-forwarded or skipped the value of the ad to the advertiser is diminished (or destroyed) as the subscriber doesn't see the ad or only sees illegible portions of the ad as it is fast-forwarded ***(i.e. remove the undesired program segments from the specific program***. (Plotnick, pp. 0120); the value of the ad can be salvaged by replaying the fast-forwarding ad with an alternative shortened version of the ad. The alternative ad may be generated from the ad by applying rules that are either specific to the ad or are general and can be used for generating a replacement for any fast-forwarding ad, this alternative ad is considered as providing mechanism for reimbursing source content suppliers for financial loss; (Plotnick, pp. 0121); Examiner believes that scope of claim 9 is not further than the limitation of claim 1 and 5.

D. Claim 7 and 11: Applicant argues that Plotnick does not teach to record and report viewer decision to automatically remove undesired program segments. (Remark, page 9). Examiner disagrees.

Examiner relies on Plotnick teaches The ad server 716 transmits available ads and ad metadata to STB PVRs based on the ad schedule 1154. If the ads are displayed to the subscriber, the STB data server 1112 generates an ad play report 1160. The ad

availability information 1158 and the ad play reports 1160 are formatted 1162 to create reports/logs 1164 that are forwarded to the T&B system 712. The traffic and billing system 712 bills the advertiser based on requirements satisfied during the campaign); (Plotnick, pp. 0118) because STB PVRs is automatically recording device where the program guide information can also include metadata about the programs that enables the autonomous recording of programs based on a user profile. Automatic program guide based recording can be used to record or repeatedly record a program. (Plotnick, pp. 0064); Therefore, If the ads are displayed to the subscriber, the STB data server 1112 generates an ad play report 1160 automatically.

II.. Rejection Under 35 U.S.C..~ 103(a) of Claims 2, 6 and 10

Applicant argues that *combined teaching of Plotnick and Haberman do not teach "time shifting two or more programs to fill time space resulting from removing the undesired segments from the TV program"* (Remark, page 9). Examiner disagrees.

As the same discussion sets forth in section A; Plotnick teaches *"removing the undesired segments from the TV program"* this causes the gap (or time space) between two or more programs. Examiner relies on Haberman teaches "to eliminate any gaps, or to add additional features to the data stream such as graphic overlays, Haberman, pp (0051-0058) meets "*time shifting two or more programs to fill time space"*

Therefore, it would have been obvious to modify *time space resulting from removing the undesired segments from the TV program* of Plotnick includes *time shifting two or more programs to fill time space to present the TV program continuing* in a just-in-time fashion.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims **1, 5, 7, 9 and 11** are rejected under 35 U.S.C. 102(b) as being anticipated by **Plotnick** et al. (US Pub. 20020178447) (herein after **Plotnick**).

3. Claims **1, 5 and 9**: Fig. 3 of Plotnick illustrates a head-end based PVR (HE PVR) as **an apparatus**, also known as the Personal Video Channel (PVC), is an

implementation of the PVR in which the storage function is performed outside of the subscriber residence supports **a process for allowing a viewer at a TV display to bypass undesired segments of a TV program** (Plotnick, pp0078) including:

A video server 222 for **storing on a shared personal video recorder (PVR) network server at a distribution head end** [228] **one or more TV programs containing a first class of metadata** (i.e. the program metadata [1022] of Fig. 10) **including a start location** (i.e. pre-pended insert) **and a stop location (i.e.** post-pended insert) **of potentially undesired segments** (i.e. TV program as a playback material is inserted with an advertisements, including traditional 30 second commercials, IPG ads, pre-pended and post-pended ads, as well as various types of virtual ads (i.e., overlays, product placements, bugs); (Plotnick, pp (0079-0080, 0101-0102) and (Fig. 10, pp. 0108, Fig. 11 pp. 0114)

retrieving one of the TV programs for display; (i.e. A VoD system allows a subscriber to retrieve video (i.e., a movie) at any time). (Plotnick, pp. 0071)

Fig. 10 depicts a filter AD [1008] for **defining** an Ad [1002] from Ad feed [1000], **with a second class of metadata** (i.e. Ad metadata [1006], **unwanted segments specific to a user of said TV display (i.e.** the target audience specified in the ad metadata 1006 with the viewer profiles from a profile database 1046)**,** (Plotnick, pp. (0106 and 0107)

Fig. 1 of Plotnick illustrates a STBPVR includes **a processor** [120] (Plotnick, pp. 0067) **and logic coupled to the shared personal video recorder network server (i.e.** PVR can be connected over a variety of network types as DOSSIS and can receive

streaming media broadcasts (Plotnick, pp. 0069-0070) **adapted to compare** for **matching the first class of metadata** (i.e. prepared program metadata 1024) **with the second class of metadata** (i.e. the ad metadata 1006)**;** (i.e. by comparing the target audience specified in the ad metadata 1006 with the viewer profiles from a profile database 1046. If a match exists, the match will be used for selecting an appropriate ad.); (Plotnick, pp. 0107 and 0112)

removing, responsive to matching the first class of metadata with the second class of metadata, undesired segments from the TV program; (i.e. ads that may be removed from a universal ad queue (UAQ) by the rules which may be rules provided by the advertisers in the development of the UAQ, general rules applied to all UAQs, rules that are based on a profile of the subscriber developed by the PVR), (Plotnick, pp. 0040, 0130) and

Plotnick further teaches reimbursing source content suppliers for a financial loss occasioned by removed material, wherein the source content suppliers are distinct from an operator of the distribution head end (i.e the value of the ad can be salvaged by replaying the fast-forwarding ad with an alternative shortened version of the ad. The alternative ad may be generated from the fast-forwarding ad or it may be a separate ad. The alternative ad may be a portion of video of the fast-forwarding ad (i.e., the first 2 seconds, first second and last second), a single image, a combination of still image and video, a modification of video, still image or combination thereof (i.e., addition of graphics), or not be based on the fast forwarding ad at all. The alternative ad may be displayed in place of the fast-forwarding ad or in conjunction with the fast-forwarding ad

(i.e., split screen, picture-in-picture). The alternative ad may be generated from the ad by applying rules that are either specific to the ad or are general and can be used for generating a replacement for any fast-forwarding ad; (Plotnick, pp. 0121); means that the alternative ad is considered as providing any mechanism for reimbursing source content suppliers for financial loss because the Ads are still displayed in form of split screen, picture-in-picture), but service provider do not bill the Advertiser for displaying the Ads in alternative ad

Claims 7, 11. (Previously presented) The apparatus as set forth in claim 5. Plotnick also teaches adapted to **record and report viewer decisions to automatically remove undesired program segments**. (i.e. The ad server 716 transmits available ads and ad metadata to STB PVRs based on the ad schedule 1154. If the ads are displayed to the subscriber, the STB data server 1112 generates an ad play report 1160. The ad availability information 1158 and the ad play reports 1160 are formatted 1162 to create reports/logs 1164 that are forwarded to the T&B system 712. The traffic and billing system 712 bills the advertiser based on requirements satisfied during the campaign); (Plotnick, pp. 0118) because STB PVRs is automatically recording device where the program guide information can also include metadata about the programs that enables the autonomous recording of programs based on a user profile. Automatic program guide based recording can be used to record or repeatedly record a program. (Plotnick, pp. 0064); Therefore, If the ads are displayed to the subscriber, the STB data server 1112 generates an ad play report 1160 automatically.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims **2, 6 and 10** are rejected under 35 U.S.C. 103(a) as being unpatentable over Plotnick et al.; in view of Haberman et al. (US Pub. 2002/0013943) .

3. **Claims 2, 6 and 10**: (Previously presented) The process as set forth in claims 1, 5 and 9 respectively; Plotnick is silent with respect to "time shifting two or more programs to fill time space" resulting from removing the undesired segments from the TV program.

In an analogous art directed toward a similar problem namely improving the results from time shifting two or more programs to fill time space. Fig. 7-8 of Haberman illustrate a time gap 69 may be included between the end point 65 of one set of segments and the start point 67 of the next set of segments. This time gap 69 provides the delay necessary to allow the switch 59 to change seamlessly from one data stream 50a to another 50b. Output processing 63 may include buffering and other processing techniques for the data, for example to eliminate any gaps, or to add additional features to the data stream such as graphic overlays, Haberman, pp (0051-0058) meets the limitation of claim "time shifting two or more programs to fill time space". Therefore, it

would have been obvious to one with ordinary skill in the art at the time of the invention was made to modify the gap from removing the undesired segments from the TV program of Plotnick including the processing for eliminate any gaps, by add additional data stream as taught by Haberman in order to provide different selectable segments for each slot. The multiple segments are then simultaneously broadcasted over multiple data streams to a receiver, wherein the receiver switches between the data streams to assemble the personalized message in a just-in-time fashion (Abstract)

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALAN LUONG whose telephone number is (571)270-5091. The examiner can normally be reached on Mon.-Thurs., 8:00am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ALAN LUONG/
Examiner, Art Unit 2427

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